

**IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

MJ MODERN TRUCKING, INC.,

Plaintiff,

v.

**LOVE'S TRAVEL STOPS &
COUNTRY STORES, INC., and
SPEEDCO, INC.,**

Defendants.

CIVIL ACTION FILE NO.:

**REMOVED FROM STATE COURT
OF CLAYTON COUNTY
CIVIL ACTION FILE NO.
2023CV00237**

DEFENDANTS' NOTICE OF REMOVAL

TO: The Honorable Judges of the United States District Court for the Northern District of Georgia, Atlanta Division:

COME NOW, LOVE'S TRAVEL STOPS & COUNTRY STORES, INC. and SPEEDCO, INC., (hereinafter "Defendants"), and files the following Notice of Removal to United States District Court, showing the Court as follows:

1. A civil action was filed on January 30, 2023, in the State Court of Clayton County, State of Georgia. That action is designated there as Civil Action File No.: 2023CV00237. Defendants first received notice of the suit on the day they were served, January 31, 2023. This removal is timely filed. Plaintiff pled in its Complaint claims

for damages in an amount no less than \$81,000.00. (See Compl. ¶¶ 29, 39, 46, 53, 64, 72, 83).

2. Defendants file herewith a copy of all process, pleadings, and orders received by Defendants in Civil Action File No.: 2023CV00237, pursuant to 28 USC §1446.

3. Defendant Love's Travel Stops & Country Stores, Inc., is now, was at the commencement of Civil Action File No.: 2023CV00237, and at all times since has been an entity organized and existing under the laws of the State of Oklahoma.

4. Defendant Love's Travel Stops & Country Stores, Inc.'s Principal Office at the time of filing of Civil Action File No.: 2023CV00237 was, and at all times since has been located in Oklahoma City, Oklahoma.

5. Defendant Speedco, Inc., is now, was at the commencement of Civil Action File No.: 2023CV00237, and at all times since has been an entity organized and existing under the laws of the State of Oklahoma.

6. Defendant Speedco, Inc.'s Principal Office at the time of filing of Civil Action File No.: 2023CV00237 was, and at all times since has been located in Oklahoma City, Oklahoma.

7. Upon information and belief, Plaintiff is a Georgia Corporation with its principal place of business in the State of Georgia. (Compl. ¶ 1).

8. The action described above is a civil action with a claim of which this Court has original jurisdiction, and it is one that may be removed to this Court by the Defendant pursuant to the provisions of 28 USC §§ 1332 and 1441 et seq., in that there is complete diversity among the Parties, the Parties are not residents of the same State, and the amount in controversy exceeds \$75,000.00 exclusive of interest and costs.

- a. Plaintiff pled in its Complaint claims for damages in an amount no less than \$81,000.00. (See Compl. ¶¶ 29, 39, 46, 53, 64, 72, 83).
- b. "Amount in controversy" means simply the amount sought by Plaintiff that can be legally awarded by the fact-finder. "The jurisdictional fact in this case is not whether the damages are greater than the requisite amount, but whether a fact finder might legally conclude that they are: In other words, an amount that a plaintiff claims is not 'in controversy' if no fact finder could legally award it." *Kopp v. Kopp*, 280 F.3d 883, 885 (8th Cir., 2002). "[T]he plaintiffs' likelihood of success on the merits is largely irrelevant to the court's jurisdiction because the pertinent question is what is in controversy in the case, not how much the plaintiffs are ultimately likely to recover." *Pretka v. Kolter City*

Plaza II, Inc., 608 F.3d 744, 751 (11th Cir., 2010). In a tort case the amount in controversy includes "general, special, and punitive damages." *Williams v. Best Buy Co.*, 269 F.3d 1316, 1320 (11th Cir., 2001).

9. Defendants attach hereto a copy of the Summons and Complaint in State Court of Clayton County, State of Georgia, marked as Exhibit "A".

10. Defendants attach hereto a copy of Defendant's Notice of Removal which has been sent for filing in the State Court of Clayton County, State of Georgia, marked as Exhibit "B".

WHEREFORE the Defendants pray that the above action now pending against them in the State Court of Clayton County, State of Georgia, be removed to this Court.

This 1st day of March, 2023.

HALL BOOTH SMITH, P.C.

/s/ Mark D. Christopher
SCOTT H. MOULTON
Georgia State Bar No. 974237
MARK D. CHRISTOPHER
Georgia State Bar No. 82138
Counsel for Defendant

191 Peachtree Street, N.E.
Suite 2900
Atlanta, Georgia 30303-1775
(404) 954-5000
(404) 954-5020 Fax
smoulton@hallboothsmith.com
mchristopher@hallboothsmith.com

**DEFENDANT DEMANDS
TRIAL BY JURY**

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CERTIFICATE OF COMPLIANCE

The foregoing **DEFENDANTS' NOTICE OF REMOVAL** is double spaced in 14 point Times New Roman font and complies with the type-volume limitation set forth in Local Rule 7.1.

Respectfully submitted this 1st day of March, 2023.

HALL BOOTH SMITH, PC

/s/ Mark D. Christopher

SCOTT H. MOULTON

Georgia State Bar No. 974237

MARK D. CHRISTOPHER

Georgia State Bar No. 821387

Counsel for Defendants

191 Peachtree Street NE, Suite 2900
Atlanta, GA 30303-1775
T: (404) 954-5000
F: (404) 954-5020
smoulton@hallboothsmith.com
mchristopher@hallboothsmith.com

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CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of the within and foregoing **DEFENDANTS' NOTICE OF REMOVAL** upon all parties to this matter by depositing a true copy of same in the U.S. Mail, proper postage prepaid, addressed to counsel of record as follows and/or filing said document with the CM/ECF system which will automatically send electronic notification to the following:

A. Zakiya Watson-Caffe
Watson Law LLC
800 Kennesaw Avenue NW, Ste. 220
Marietta, Georgia 30060
Zak@zwatsonlaw.com
Attorney for Plaintiff

This 1st day of March, 2023.

HALL BOOTH SMITH, P.C.

/s/ Mark D. Christopher

SCOTT H. MOULTON

Georgia State Bar No. 974237

MARK D. CHRISTOPHER

Georgia State Bar No. 82138

Counsel for Defendant

191 Peachtree Street, N.E.

Suite 2900

Atlanta, Georgia 30303-1775

(404) 954-5000

(404) 954-5020 Fax

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DEFENDANT DEMANDS

TRIAL BY JURY